

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

January 18, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 18, 2007, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Harold Warner, Jr., John W. McKay, Jr.; Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Bud Hentzen; Ronald Marnell; Hoyt Hillman and Michael Gisick. Morris K. Dunlap and Don Sherman were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

CHAIRMAN DOWNING announced that he met with the new County Commissioner for his area, Gwen Welshimer, and that it was evident he could not meet her expectations. He said he would continue his duties as a Metropolitan Area Planning Commissioner through the month of February. He expressed his appreciation to members of the MAPC who helped him get organized, provided guidance, and for just being good friends and especially to MAPD staff.

1. Approval of the December 21, 2006, and January 4, 2007 MAPC minutes.

MOTION: To approve the December 21, 2006 MAPC minutes.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (12-0).

MOTION: To approve the January 4, 2007 MAPC minutes.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (12-0).

MOTION: To move item #11, "Request to reconsider the minutes from October 19, 2006, dealing with CON2006-35, LaFarge Sand Pit," up to item #1.

DOWNING moved, **BISHOP** seconded the motion, and it carried (12-0).

Request to reconsider the minutes from October 19, 2006, dealing with CON2006-35, LaFarge Sand Pit.

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR, stated he was not present to represent the request; however, he had received a phone call from the requester, Mark Regester, saying he would be unable to attend the meeting because of a personal family emergency nor was anyone available to attend the meeting for him. **PARNACOTT** said they discussed possible deferral; however, since there were people from out of town present to hear the request, and Mr. Regester had submitted his request in writing, Mr. Regester agreed to allow the MAPC to make a determination on his request at today's meeting. **PARNACOTT** said the request was to amend the minutes of the October 19, 2006 MAPC Meeting. He referred Commissioners to Mr. Regester's letter and attachment provided with the agenda. He commented that Robert's Rule of Order provided for amending the minutes due to an error or material omission. He asked for any questions.

ALDRICH clarified that the purpose of minutes was to provide a brief summary of the MAPC discussion. He asked if more detailed minutes were provided to the County Commission and City Council?

PARNACOTT replied that the meeting minutes and any materials associated with a case were provided to the Board of County Commissioners (BOCC). He added that the County Commission also allows citizens to make a case, and provide additional input in front of them at County Commission Meetings. He said it is a second chance for people to make a presentation on an item. He said there was no material omission in the minutes, in his opinion, and added that the group will have an opportunity to reintroduce information to the BOCC.

MITCHELL asked if the official record of this case would be changed at all by the MAPC's action today?

PARNCOTT said no, but today's action would be included as part of the packet on the case. In response to a question from **WARNER**, **PARNACOTT** clarified that the request will become part of the case record.

WARNER asked why this request was being made?

PARNACOTT said Register had three points; namely, No. 1, in Mary Belton's Power Point presentation nine factors or review criteria were cited; however, he did not feel there was sufficient discussion provided for each point. He provided some discussion points. No. 2, he also wanted to add some comments made in regards to water rights applied for in excess of the application area. **PARNACOTT** commented that although this was discussed, it is not part of the application; and No. 3, he did not like the way the property value study was mentioned in the record and wanted additional wording added.

BISHOP asked if the additional material the group provided was part of the packet that went to the County Commission?

PARNACOTT said the Power Point presentation was fairly long; however, he believed a copy of the text of the presentation was submitted. He added that the BOCC also allowed people to submit additional material. Responding to another question from **BISHOP**, he clarified that backup material was not on the County Web Site.

MOTION: To deny the request to alter the October 19, 2006 minutes.

MARNELL moved, **MITCHELL** seconded the motion, and it carried (12-0).

MARNELL commented that the way the minutes were prepared was consistent. He said they couldn't alter the minutes every time someone does not receive a favorable outcome.

BISHOP said she supported the motion because the County Commission holds an open hearing, unlike the City Council, which was in essence a second public hearing where oral and written testimony was added to the record.

ALDRICH said the minutes pertaining to this particular case were approved by the MAPC, and that they were a brief accurate summary of the discussion concerning the case.

❖ **PUBLIC HEARINGS**

2. **Case No.: ZON2006-54** (deferred from 12/21/06 meeting) – Villa Flores, LLC, Originally requested zone change from "SF-5" Single-family Residential to "MF-29" Multi-family Residential: Applicant has revised his zone change request to "TF-3" Duplex Residential, on property described as;

Beginning 1320 feet North of the Southeast Corner of the West Half of the Northeast Quarter of Section 5, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence West parallel with the South line of said Quarter Section, 599 feet to a point 730 feet East of the West line of said West Half; thence 394 1/2 feet North to a point 730 feet East and 1066.3 feet South of the Northwest Corner of the West Half of the Northeast Quarter aforesaid; thence East parallel with the North line of said Quarter Section, 180 feet to the center of Chisholm Creek; thence Southeasterly along the center of said creek to the East line of said West Half; thence South 83.2 feet to the place of beginning, except that part condemned by North Wichita Drainage District, Sedgwick County, Kansas, EXCEPT the West 440.00 feet of the South 25.00 feet. Generally located 1/8-mile east of Arkansas Avenue on the north side of 27th Street North.

BACKGROUND: The applicant is seeking “TF-3” Duplex Residential zoning on a “SF-5” Single-family Residential zoned 3.5-acre unplatted and undeveloped site. The site is located approximately three-blocks east of Arkansas Avenue, on the north side of 27th Street North with its east side up against a drainage channel. 27th does not cross this abutting drainage channel, which flows north from the Chisholm Creek Diversion (37th-36th Street North) southeast, below 21st Street North to the drainage channel that runs parallel to I-35. 27th provides the only access onto the site.

The applicant had originally requested “MF-29” Multi-family Residential zoning on the site. Staff had recommended denial of the requested “MF-29” zoning, noting that the site: (a) The site had no direct access onto an arterial or a collector street and thus did not meet the locational criteria for multi-family residential zoning. Its one point of access was onto a local street, 27th Street North. (b) The predominate zoning in the area is “TF-3”, with some “B” Multi-family Residential zoning (east of the site across the drainage channel) and that the area is developed mostly as single-family residential. DAB VI recommended denial of the “MF-29” zoning at their December 20, 2006 meeting, noting that the site could be developed as single-family residential, which is the design of the area’s existing development. At the MAPC’s December 21, 2006 meeting the applicant requested a deferral, to allow them to go back to DAB VI with a different zoning request; today’s “TF-3” zoning request. Staff has received phone calls, both now and prior to the first scheduled (December 21, 2006) MAPC meeting. Concerns were expressed about the impact of a cluster of duplexes, located on a site this large site in regards to traffic, parking, drainage and the neighborhood’s character and property values.

The site and four abutting and adjacent properties north of the site, are the area’s only “SF-5” zoned properties between the drainage channel and Arkansas Street. The site and the largest of the other “SF-5” zoned properties are also some of the few undeveloped properties in the area and both abut the drainage channel. There is also a small nonconforming trailer park north of the site and the other vacant “SF-5” zoned properties. Property west of the site is platted (Northcourt Addition, recorded 1938), is zoned “TF-3” and is developed as single-family residential, with residences appearing to have been being built through the late 1930s through 1950. Property south of the site, across 27th is platted (Maggarts Addition, 1909), zoned “TF-3” and is developed as single-family residential, with the residences closest to the site being built in the late 1930s through 1961. Properties east of the site, across the drainage channel, are zoned “TF-3” and “B.” The “TF-3” zoned property is platted (Meadow Creeks Addition, 1995) and is developing (1995) as a single-family residential subdivision: this is the most recent building in the area and it is only partially developed. The “B” zoned properties are either not platted and not developed or platted (Northland Addition, 1919, and Mount Rose Park Addition, 1932) and developed as single-family residences. Although most of the zoning in the area is “TF-3” with some “B” zoning, development is predominately single-family residential and in fact was developed as such prior to it being annexed into the City. There is a two-story apartment (1983), zoned “GO” General Office, located three-blocks west of the site on Arkansas Avenue, a two-lane minor arterial. This is the only apartment within a two-blocks north of the site. There is a 2.21-acre complex of 16-duplexes (32 units) owned by the Wichita Housing Authority (LHA Addition, September 25, 1979) located two-blocks south of the site. This site has direct access onto 25th Street North, a minor arterial, and Jackson and Waco Avenues, both residential streets.

CASE HISTORY: The subject property is not platted and is vacant. The site’s area was annexed into the City between 1961-1970. The 1958 zoning map shows the site’s area being zoned “R-1” Suburban Residential. When the site’s area was annexed into the City its zoning was changed to “A” Two-family Residential (which was changed to “TF-3” in 1996) and “B”. The predominate single-family residential development in the area was in place prior to the “TF-3 & “B” rezoning, which was the result of the area being annexed into the City.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5”	Vacant
SOUTH:	“TF-3”	Single-family residential
EAST:	“TF-3”, “B”	Single-family residential, vacant
WEST:	“TF-3”	Single-family residential

PUBLIC SERVICES: The subject site has one point of access onto a public street, 27th Street North. 27th is a paved residential street that connects to Arkansas Avenue, three-blocks east of the site. Arkansas is a two-lane minor arterial. 27th does not cross over, east, the drainage channel, but instead intersects south onto Jackson, Waco and Fairview Avenues, paved residential streets. The site is within the 500-year floodway and the eastern abutting drainage channel, Chisholm Creek, which is within the 100-year floodway. All other utilities and services are available.

CONFORMANCE TO PLANS/POLICIES: According to the *Unified Zoning Code* (UZO), “TF-3” zoning accommodates moderate-density single-family and duplex residential development as well as very limited multi-family residential development (with a Conditional Use) and is intended for application within the City of Wichita. The *Comprehensive Plan* (Plan) defines medium density residential as 6-10 units per acre. The Plan’s residential location guidelines state that: medium density uses should be located within walking distance of schools; they should be directly accessible to arterial or collector streets and these uses should be sited where they will not overload or create congestion in existing or planned facilities. The site is less than a ½-mile from Cloud Elementary School and three blocks from Evergreen Park. The site does not have direct access to an arterial or a collector street. The site is located three blocks from Arkansas Avenue and two blocks from 25th Street North, both two-lane minor arterials. Traffic from the site would travel through a single-family residential neighborhood to get to either of the two minor arterials. The *Wichita Functional Land Use Guide Map* depicts the site as appropriate for “urban residential”, which reflects the full diversity of residential development densities found in a large urban municipality. The site is also located within a “Local Investment Area” and a “Neighborhood Revitalization Area”, which has a tax rebate program that provides a five-year rebate on new construction of single-family, duplex, multi-family residential and commercial and industrial development, within specific guidelines. The requested zoning either matches or is more restrictive than the existing zoning within the site’s area, but is less restrictive than the site’s existing “SF-5” zoning.

RECOMMENDATION: The most recent development, 1995, in the area is a partially developed single-family residential subdivision (Meadow Creeks Addition, zoned “TF-3”), located east, across the drainage channel, from the site. The predominate zoning in the area is “TF-3” with some “B” zoning across the drainage channel, although development in the area is predominately single-family residential. As noted in the ‘Case History’ section of this report, most of the area’s current single-family development was in place before the area was annexed into the city and its zoning subsequently changed from “R-1” Suburban Residential to what it is now, “TF-3” or “B”. In fact the site and its abutting northern neighbor’s “SF-5” zoning are isolated by the area’s surrounding “TF-3” and “B” zoning. Although the proposed duplex development does not match the single-family development of the area the requested zoning does match the predominate “TF-3” zoning in the area. The site has been vacant for at least 30-years and most of the development in the area has been either established for longer than 30-years or is slowly developing, as reflected in the adjacent partially developed “TF-3” zoned Meadow Creeks single-family residential development. The issue of the site not having direct access onto an arterial or a collector street is countered by the fact that the “SF-5” zoned site (as well as the “SF-5” tract that abuts the north side of the site) has been vacant for at least 30-years in an area that was largely developed prior to its annexation into the City between 1961-1970. The proposed “TF-3” zoning would allow possible infill development/housing opportunities that have not happened up to this time. The proposed “TF-3” zoning would also allow development that would be out of character with the existing development in the area, which was a concern expressed by DAB VI at their first meeting. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within a year and the following Protective Overlay “PO” #184.

(1) A minimum lot width of 50-feet for all lots and a minimum lot size of 6,000-square feet per lot for duplexes and 5,000-square feet for single-family residential lots. If developed as duplexes, this will include no common parking areas, but instead off street parking will be provided for each duplex on the lot they occupy.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is established (prior to annexation between 1961-1970) as single-family residential, with most of it zoned “TF-3” and less zoned “B”. The “B” zoned properties are all located east, across the drainage channel, from the site. The site and four other abutting and adjacent properties are the only zoned “SF-5” zoned tracts (not platted or platted) in the area. The site and the abutting northern site are also one of the few undeveloped sites in the area. The few vacant properties (including the site and including all zoning in the area) in the area appear to be mostly located next to the drainage channel. There is one, two-story apartment building, zoned “GO” located three-blocks west of the site on Arkansas Avenue, a two-lane minor arterial. There is a duplex complex two-blocks south of the site on 25th Street North.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently one of the few sites (all the others are adjacent to or abutting the subject site) in the area zoned “SF-5”, which allows a lower density of development and has fewer uses by right than the requested “TF-3” zoning. The site could be developed as zoned, which would match the long established predominate single-family

residential development in the area. However, the fact is the site and the abutting northern “SF-5” zoned property have been vacant for at least 30-years, in an area where there are few vacant properties.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Residential density and traffic volumes will increase over current conditions if the requested zoning is approved. The proposed “TF-3” does offer infill residential development opportunities on a property that has been vacant for at least 30-years, in an area that has few vacant properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is not in conformance with recommended location guidelines for medium density residential uses, however, the request is in conformance with the land use recommendations of the *Functional Land Use Guide*.
5. Impact of the proposed development on community facilities: Traffic volumes will increase and there will be an increased demand for municipal services, although this demand would not be out of the ordinary.

BILL LONGNECKER, Planning Staff presented the staff report.

LONGNECKER commented that at the December 21, 2006, MAPC meeting, the applicant requested a deferral. He said the applicant has changed the zoning request from “MF-29” Multi-family Residential to “TF-3” Two-family Residential. He said DAB VI approved the “TF-3” request with the protective overlay listed on page 4 of the staff report.

MITCHELL asked staff to explain why the area was predominately zoned “TF-3,” when it was annexed into the City.

LONGNECKER referred MAPC members to the case history on page 3 of the staff report. He said the area’s properties were platted and developed as single-family residential when the area was still in the County and zoned suburban residential. He noted that the area was already developed, as it currently is when it was annexed into the City, between 1961-1970. He said he found no rational why it was rezoned to duplex zoning even though it was predominately developed as single-family residential.

JOHN TASSETT, 207 N. PERSHING, agent for the property developer, commented on the staff recommendation of a minimum of a 50-foot width on all lots in the protective overlay. He said one corner of the cul-de-sac is a little overcrowded although they have maintained 6,000 feet on the lots. He said they have decided to split three lots into two lots in one area and that on reconsideration they could live with the 50-foot minimum lot width.

BISHOP clarified that each unit had a one single car garage, and mentioned her concern about on street parking in the area.

TASSETT agreed and said it was tough to get on street parking on a cul-de-sac.

JOHNSON asked about the reason for the 50-foot width minimum requirement on the protective overly,

LONGNECKER explained that staff was responding to the DAB’s concerns about maintaining the area’s a single-family residential design, density and character. The 50-foot lot width was the minimum lot width for the “SF-5” zoning district.

JOHNSON said he was more concerned about what the units looked like and how the area was arranged. He asked about waiving the 50-foot requirement.

LONGNECKER said the MAPC could lower that to the 35-foot minimum lot width required by the zoning code for the “TF-3” zoning district.

HILLMAN asked for background on the short term flooding that may occur in the area and past experience with flooding.

TASSET said he had talked to Central Inspection regarding the floodplain and was informed that there was nothing on the flood plan that indicated flooding was prone to happen in this area.

WARNER asked if the developer could live with the 50-foot requirement?

TASSET responded “yes”.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **BISHOP** seconded the motion, and it carried (12-0).

3. **ZON 2006-56-** Cook Construction, LLC c/o Larry Cook Request Zone change from “TF-3” Two-Family Residential to “LC” Limited Commercial with a “PO” Protective Overlay on property described as;

LOTS 3 AND 4, WEST PARK GARDENS, SEDGWICK COUNTY, KANSAS. Generally located Midway between Harry Street and Pawnee Avenue, southeast of the Esthner Avenue-Seneca Street intersection.

BACKGROUND: The applicant requests a zone change from “TF-3” Duplex Residential to “LC” Limited Commercial with a Protective Overlay (“PO”) on the site: Lots 3 and 4, West Park Gardens Addition. The lots are vacant. The site is located between a salvage yard on its east side and Seneca Avenue on its west side, almost mid-mile between Harry Street and Pawnee Avenue. This zoning request is associated with the applicant’s three southern, abutting properties, which were approved for a zone change to “LC” with a “PO,” ZON2006-15, “PO” # 175, by the MAPC at their July 20, 2006 meeting. ZON2006-15, PO #175 was also approved by DAB IV at their July 5, 2006 meeting. There were no protest registered at either meeting and both the MAPC and DAB IV gave unanimous approval, thus the current request was not scheduled for review by DAB IV. The applicant proposes to develop these properties and his abutting southern properties as one site.

As noted, development abutting the east side of the site include what was railroad right-of-way (ROW), which has been leased out (by the City) to Wichita Iron and Metal, a salvage yard, on a month to month lease: the lease is projected to be long term, as the salvage yard has been at this location since the 1980s. The salvage yard is zoned “LI” Limited Industrial, except for a “TF-3” zoned 50-foot buffer between it and the site. The City’s Public Works’ Central Maintenance facility (“LI”) finishes off development east of the site over to Meridian Avenue. Abutting the south side of the site are the previously mentioned properties owned by the applicant. North of the subject site there is a “TF-3” zoned lot developed with a single-family residence, built in 1922. This is the last residential zoned property on the east side of Seneca (which has been almost entirely striped out and zoned “GO” General Office, “NR” Neighborhood Residential and one “GC” General Commercial site) up to Harry Street.

Directly west of the site, across Seneca, is Alley Park (a city park), which is zoned “MF-29” Multi-family Residential. Alley has a municipal swimming pool, community facilities, ball fields and play ground. Stanley Elementary School (“MF-29”) abuts the northwest corner of the 15.33-acre park. North of the park, across Esthner Avenue, northwest of the site, is a neighborhood of mostly single-family residences zoned “MF-29”. Further southwest of the site, across Seneca, is the “LC” zoned Seneca Bowl, free standing retail and strip retail.

Any development on the subject property will be required to meet access management regulations, all compatibility setback, height, noise and design standards, the Unified Zoning Code’s (UZO) landscaping, screening and any other applicable codes and development standards.

CASE HISTORY: The subject properties are platted as Lots 3 and 4, the West Park Gardens Addition. The West Park Gardens Addition was recorded with the Register of Deeds October 27, 1923. The site and the area around Alley Park were annexed into the City in 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	“TF-3” “GO” “NR”	Single-family residence, offices, small retail
SOUTH:	”LC”	Cleared for redevelopment
WEST:	“MF-29”, “LC”	Public Park, single-family residences, bowling alley, retail
EAST:	“TF-3” “LI”	Buffer strip, salvage yard, Public Works facility/yard

PUBLIC SERVICES: The site has access to Seneca Avenue. Seneca is a four-lane arterial along the site. Current traffic volumes along this portion of Seneca are approximately 20,548-20,965 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on this portion of Seneca will increase to approximately 22,000 vehicles per day. Water, sewer and all other utilities are available. There are no CIPs scheduled for this section of Seneca.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan classified the site as “urban residential”. The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request, with the implementation of the UZC’s compatibility standards, current access management standards, the UZC’s required landscaping and screening, the other provisions of a proposed protective overlay and any other applicable codes and development standards, mostly conforms to the Land Use Guide and the Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Although the 2030 Wichita Functional Land Use Guide of the Comprehensive Plan classified the site as “urban residential”, the proposed zoning more closely reflects an already established trend towards nonresidential rezoning and development along this east side of Seneca. From 1971 to 1997 this eastern section of Seneca (site included), across from Alley Park and extending a block north (Merton Court) and south (Jewell Street) of the park, has had at least ten (11) approved rezoning cases from, Single-family Residential, Two-family Residential, or office to some type of office, neighborhood retail or commercial zoning, with some of these including use exceptions and covenants. When the site and the areas north, south, and west of it were annexed into the City in 1951, they were identified as some type of two-family or multi-family residential zoning, even though the site’s immediate area was abutting an already industrial zoned area on its east side. This abutting eastern area was annexed into the City between 1940 and 1950, prior to the site being annexed into the City. Since that time the industrial uses east of the site have remained and attracted reinvestment (recent improvements to the City’s Public Works Central Maintenance facility), while the residential uses between the industrial properties (east) and Seneca (west) have declined and have slowly began to be replaced with nonresidential zoning and uses. Those most recent nonresidential developments include a savings and loans (Z-3213, “LC”, 1997) and self-storage (Z-2604, “BB” Office, 1984, BZA 53-84, BZA 54-88, built 1984). The most recent residential development along this section (between the abutting eastern industrial development, abutting western Seneca frontage, between Merton to the north and Jewell to the south) are the single- family residences built in the mid 1950s in the Fulgroat Addition (recorded July 6, 1954) and the Seneca Haven Addition (recorded February 29, 1957). The applicant has proposed a Protective Overlay (“PO”) that would restrict “LC” uses on the site. The proposed “LC” zoning and “PO” generally recognizes the site’s close proximity to the 15.33-acre Alley Park and Stanley Elementary School and the declining residential value of the site and its area between the western abutting Seneca and the eastern abutting “LI” zoning and its industrial development. This proposed “LC” zoning and “PO” is the same that was approved with the applicant’s rezoning of his properties that abut the south side of the subject properties: ZON2006-15, PO #175.

Based upon information available prior to the public hearings, Staff recommends APPROVAL of the “LC” zoning and the following provisions of Protective Overlay PO #185:

1. Prohibited uses on the site include limited and general correctional placement residences, limited and general day care, limited, private and public recycling collection stations, reverse vending machine, bed and breakfast inn, car washes, convenience stores, hotels/motels, recreational marine facility, night club, commercial parking area, indoor recreation and indoor entertainment, second hand store, service station, tavern and drinking establishment, vehicle repair limited, asphalt or concrete plant, outdoor storage and pawn shops.
2. On site pole lights shall be no higher than 14-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning. No pole lights shall be located within the required compatibility setbacks.
3. A restrictive covenant binding and tying the Lots 3 & 4 and Lots 5,6, and 7, all in the West Park Gardens Addition together as one site/use will be recorded with the Register of Deeds. The restrictive covenant will include signage, cross lot access (including cross lot access to the abutting north and south properties), drainage, landscaping and parking for the site.

4. Dedication of access control onto Seneca Avenue, per approval of the Traffic Engineer. Lots 3, 4, 5, 6, and 7, all in the West Park Gardens Addition, will be treated as one site and conform to the current access management regulations.
5. Signage on the site will be as allowed in the "LC" zoning district, but be only a monument type of signage. No building signage on its north or south sides of the building.
6. Dedication of 20-feet of right-of-way along Lots 3 and 4's (West Park Gardens Addition) Seneca Avenue's frontage.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Development on the west side of Seneca Avenue is distinguished by what is south and north of the "MF-29" zoned City Park. South of the park there is "LC" zoned development including offices, a bowling alley, restaurants and retail. North of the park there is less than a block of "MF-29" zoned single-family residential development holding out from the nonresidential stripping out of Seneca, above and below Harry Street. The nonresidential zoning is mostly "LC". Development on the east side of Seneca (between Merton Court, next block north of the site, and Jewell Street, next block south of the site) is in a gradual transition from single-family residential development to nonresidential development, ranging from office, retail and including a self storage site. This side of Seneca is also being stripped out, with the added influence on the area of a large area of "LI" zoning and development abutting it and extending east to the Arkansas River. The site and the abutting areas (as above defined) north and south of it, form a narrow "waist" of properties shaped by Seneca (west) and the "LI" zoned area to its east. The "LI" zoning follows the contour of McLean Boulevard, which in turn follows the contour of the Arkansas River. Within this "waist" of properties residential development is in decline.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "TF-3" Duplex Residential. The applicant has recently cleared the vacant sites in anticipation of redeveloping it with his three abutting southern lots. The site's long time immediate proximity to "LI" zoning and its industrial development has gradually eroded its value as a site for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed "LC" zoning with the proposed "PO" would allow similar types of development as already established north and south of the area. The implementation of the provisions of the Protective Overlay and the standards of the Unified Zoning Code over the whole site would limit the adverse impact on the adjacent residential developments and the park.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "urban residential" development, but failed to recognize its declining residential value, due to its abutting location to long time industrial development and zoning. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. With the provisions of the proposed Protective Overlay, the site is largely in conformance to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Community facilities should be minimally impacted.

BILL LONGNECKER, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (12-0).

4. **Case No.: ZON2006-57/CUP2006-53** – Koch Real Estate Holdings Inc., (Attn: Sher Armstrong) (owner); Baughman Company, PA, c/o Russ Ewy Request Creation of DP-304 Koch Community Park Community Unit Plan DP-304 and zone change from “SF-5” Single-family Residential to “LC” Limited Commercial on property described as;

That part of the N 1/2 of the SE 1/4 of Sec. 35, Twp. 26-S, R-1-E of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the SE corner of the N 1/2 of said SE 1/4; thence S89°45'08"W along the south line of the N 1/2 of said SE 1/4, 1320.56 feet; thence N25°36'38"W, 132.25 feet to a point 119.50 feet normally distant north of the south line of the N 1/2 of said SE 1/4; thence N00°04'40"W parallel with the east line of said SE 1/4, 181.00 feet to a point 1377.56 feet normally distant west of the east line of the N 1/2 of said SE 1/4; thence N42°37'54"E, 429.87 feet to a point 1085.99 feet normally distant west of the east line of said SE 1/4; thence N89°45'08"E parallel with the south line of the N 1/2 of said SE 1/4, 205.49 feet to a point 880.50 feet normally distant west of the east line of said SE 1/4; thence N00°04'40"W parallel with the east line of said SE 1/4, 717.07 feet, more or less, to a point on the north line of said SE 1/4; thence N89°54'59"E along the north line of said SE 1/4, 880.50 feet to the NE corner of said SE 1/4; thence S00°04'40"E along the east line of said SE 1/4, 1330.05 feet to the point of beginning, except that part of the N 1/2 of said SE 1/4 described as follows: Beginning at the SE corner of the N 1/2 of said SE 1/4; thence northerly along the east line of said SE 1/4, 60.00 feet; thence westerly parallel with the south line of the N 1/2 of said SE 1/4, 109.02 feet to the P.C. of a curve; thence southwesterly on a curve to the left having a radius of 261.64 feet and a delta (erroneously described as deflection) angle of 39°35'07", a distance of 180.77 feet to the south line of said N 1/2 of said SE 1/4; thence east 275.56 feet to the point of beginning, all being subject to road rights-of-way of record.

as shown by the last deed of record filed in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 27th day of October, 2006 at 7:00 A.M. Generally located West of Oliver and south of K-96.

BACKGROUND: The applicant proposes to create DP-304 Koch Community Park Community Unit Plan, containing approximately 31 acres with three parcels located west of Oliver and south of K-96. The property currently is zoned “SF-5” Single-family Residential. “LC” Limited Commercial is the requested zoning for the CUP, although the uses for Parcel 1 (10.57 acres) and Parcel 2 (5.18 acres) would be restricted to those allowed by right in the “GO” General Office zoning district. All parcels would exclude the following uses: adult entertainment, sexually oriented business, correctional placement residence, asphalt/concrete, safety service, pawn shop, agricultural sales and service, commercial wireless facilities or theatre. A private non-profit group, Rainbows United, hopes to develop Parcel 1 with an office/child care use. No specific uses are identified for the remainder of the tract.

Maximum building coverage would be 20 percent for Parcels 1 and 2 and 30 percent for Parcel 3. Maximum gross floor area would be 35 percent for the entire CUP, for a maximum floor area ratio of 0.35:1. Maximum building height is 35 feet for Parcels 1 and 2 and 45 feet for Parcel 3. Building setbacks would be 35 feet along K-96, Oliver Avenue, Norwood Lane and most of the west property line. The setback increases to 50 feet in width to accommodate the existing hedgerow and includes a 30-foot landscape buffer for the south property line and the west property line to a point about 315 feet north of the southwest corner of the tract.

Requested screening for the south and southwest property line would rely on the existing hedgerow combined with a screening wall or decorative fencing in areas where the landscape materials are less densely established than one tree per 20 feet of common property line. The gaps would be planted with a mixture of deciduous and evergreen species at a planting size of 2” or more calipers for deciduous trees and six to eight feet in height for evergreen trees. As proposed, the screening with landscape materials meets the minimum Unified Zoning Code requirement only if the property were zoned GO and not located within a CUP. The Unified Zoning Code requirement for all LC zoning is a solid screening wall and the requirement for commercial zoning within a CUP is with a masonry-type solid screening wall. And, the screening wall would be supplemented with a landscape buffer of one tree per 40 feet of common property line on property zoned LC. The requested waiver of the screening wall will have to be approved by an override of the Wichita City Council.

Also, the applicant has requested a waiver of screening requirements on the rest of the west property line. The same applicant (Koch) owns all the property west of the creek. The western boundary of the CUP lies along the East Fork Chisholm Creek Tributary #3. It is within the 100-year floodplain, and a stand of trees is located along the creek/property line.

The CUP stipulates uniform architectural compatibility within each parcel. All buildings are to have predominately earth-tone color palette, although the more color is designed for the Rainbows United building. All parking lots would have similar or consistent lighting elements, limited to 24 feet in height for the entire CUP.

Signage would be per the Unified Zoning Code for LC zoning, with the following additional restrictions. Monument signage for Oliver Avenue would be one freestanding sign each on Parcel 1 (located a minimum of 150 feet north of Norwood Lane) and Parcel 2; these signs would have a maximum size of 96 square feet and height of 14 feet and be spaced as closely as 75 feet apart. Alternatively, Parcels 1 and 2 could share one monument sign on Oliver Avenue with a maximum size of 150 square feet and 20 feet in height. Four signs with a maximum size of 96 square feet and height of 14 feet would be allowed on Parcel 3 along Oliver, all spaced 150 feet apart. Flashing signs (except time, temperature or public service messages), rotating or moving signs, signs with moving lights or signs that create the illusion of movement would be prohibited. Also, portable, and off-site signs are prohibited. No special conditions are given for signage along K-96. Building wall signage will be prohibited on the facades along the southern property line.

The site currently is zoned SF-5 and is in agricultural use, as is the property in the same ownership west of the creek. The property is bounded by K-96 on the north, and is zoned "LI" Limited Industrial north of K-96. The property east of proposed Parcel 3 on Oliver is zoned SF-5 and is developed with suburban residences. The property east of proposed Parcel 1 is Chisholm Creek Park, zoned "MF-18" Multi-family Residential. The property south is zoned SF-5 and developed with single-family residences in the Lost Acres Addition.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Koch complex
SOUTH:	SF-5	Single-family subdivision
EAST:	SF-5, MF-18	Suburban tracts, Chisholm Creek Park
WEST:	SF-5	Undeveloped, agricultural

PUBLIC SERVICES: Oliver Avenue is a four-lane major arterial. K-96 has an off-ramp at the intersection with Oliver. Traffic counts in 2006 were 11,503 vehicles per day north of 29th Street North on Oliver.

Proposed access is two major openings, plus one right-in/right-out and one exit only. The southernmost drive is to align with the opening to Chisholm Park east of Oliver Avenue, and the northernmost opening is to align with the existing driveway and end point of the median on Oliver. General Provision #25 indicates that initially a private drive will be installed serving Parcels 1 and 2, but upon development of Parcel 3, this access easement would be converted to a platted public street, improved to public street standards. The CUP proposes an exit-only opening onto Norwood Lane near Oliver.

Other municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial," which is the type of development proposed.

Commercial Objective III.B encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has access due to its location on the K-96/Oliver interchange. No commercial activities are located south of K-96 today; the property north of K-96 is in commercial use. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural requirements, parking lot elements and lighting consistency, retrained signage particularly on Oliver, cross-lot circulation, a site circulation plan, and combined ingress-egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards of the Access Management Policy.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may

adversely affect residential use, and #4 recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet, restricts Parcels 1 and 2 to uses permitted by right in GO, and reduces the some uses on Parcel 3. Additional restrictions on uses, limitations on overhead doors and drive-through uses, and size of retail uses would benefit nearby residences.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-57) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-304), subject to the following conditions:
 1. Transportation improvements:
 - a. Slight modifications on the CUP drawing may be needed during platting to align the drives in this manner.
 - b. Provide petition(s) to guarantee construction of left turn center lanes to both major entrances.
 2. Revise General Provision #7E to include “billboards.” Add prohibition of building wall signage on south facades on Parcels 1 and 2 and west facades on Parcel 2.
 3. Add to General Provision #9: “and away from residential areas.”
 4. Revise General Provision #13 to provide solid screening for all outdoor work and storage areas, parking lots and loading docks, etc. from residential zoning districts.
 5. Add to General Provision #15 “per Unified Zoning Code.”
 6. Revise General Provision #18 to prohibit overhead doors facing residential zoning except on west property line and prohibit drive-in windows within 200 feet of residential zoning. Limit maximum size of any single retail use to 40,000 square feet except for a grocery store or drug store.
 7. Revise General Provision #24 to provide pedestrian connections between buildings.
 8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 9. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 10. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 11. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-304) includes special conditions for development on this property.
 12. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is zoned SF-5 and is in agricultural use, as is the property in the same ownership west of the creek. The property is bounded by K-96 on the north, and is zoned “LI” Limited Industrial north of K-96. The property east of proposed Parcel 3 on Oliver is zoned SF-5 and is developed with suburban residences. The property east of proposed Parcel 1 is Chisholm Creek Park, zoned “MF-18” Multi-family Residential. The property south is zoned SF-5 and developed with single-family residences in the Lost Acres Addition.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the SF-5 uses as currently zoned or local commercial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the commercial use on the nearby residential areas to the east will be decreased by use restrictions, site restrictions nearer residential development, and design elements of the CUP.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial,” which is the type of development proposed. **Commercial Objective III.B** encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The tract has access due to its location on the K-96/Oliver interchange. No commercial activities are located south of K-96 today; the property north of K-96 is in commercial use. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural requirements, parking lot elements and lighting consistency, retrained signage particularly on Oliver, cross-lot circulation, a site circulation plan, and combined ingress-egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards of the Access Management Policy. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet, restricts Parcels 1 and 2 to uses permitted by right in GO, and reduces the some uses on Parcel 3. Additional restrictions on uses, limitations on overhead doors and drive-through uses, and size of retail uses would benefit nearby residences.
5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase on Oliver Avenue, which can be mitigated left-turn center lane improvements.

DONNA GOLTRY, Planning Staff presented the staff report and the following supplemental memo handout to the MAPC:

The applicant has offered additional restrictions on uses for Parcel 3 and screening for Parcel 1 and has agreed to remove the access onto Norwood Lane based on concerns raised by nearby residents and discussion at the District I Advisory Board meeting held January 8, 2007.

Based on this information, staff recommends the request the APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-57) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-304), subject to the following conditions:
 1. Transportation improvements:
 - a. Slight modifications on the CUP drawing may be needed during platting to align the drives in this manner.
 - b. Provide petitions(s) to guarantee construction of left turn center lanes to both major entrances.
 - c. Remove the exit-only access onto Norwood Lane.
 2. Revise General Provision #7E to include “billboards.” Add prohibition of building wall signage on south facades of Parcels 1 and 2 and west facades on Parcel 2.
 3. Add General Provision #9: “and away from residential areas.”
 4. Revise General Provision #13 to provide solid screening for all outdoor work and storage areas, parking lots and loading docks, playground, etc. from residential zoning districts.
 5. Add to General Provision #15 “per Unified Zoning Code.”
 6. Revise General Provision #18 to prohibit overhead doors facing residential zoning except on west property line and prohibit drive-in windows within 200 feet of residential zoning. Limit maximum size of any single retail use to 40,000 square feet except for a grocery store or drug store. Revise General Provision #18 to prohibit the following additional uses from Parcel 3: manufactured home; accessory apartment; convalescent care facility; golf course; government service; hospital; recycling collection station; reverse vending machine; school, elementary, middle and high; utility, minor; animal care limited; bed and breakfast inn; broadcast/recording studio; car wash; construction sales and service;

- convenience store; hotel or motel; marine facility; recreational; medical service; night club; post office substation; recreation and entertainment, indoor, secondhand store; service station; tavern and drinking establishment; vehicle repair, limited; storage, outdoor.
7. Revise General Provision #24 to provide pedestrian connections between buildings.
 8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 9. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 10. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 11. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-304) includes special conditions for development on this property.
 12. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the governing Body, or the request shall be considered denied and closed.

GOLTRY explained that she had met today with the applicant and agent to address neighborhood concerns regarding access, screening and future development of Parcel 3. She referred MAPC members to a handout, which was the “revised” staff recommendations based on that meeting. She specifically referred to, page 2, paragraph 6, which was a list of prohibited uses. She explained that the applicant has requested removal of all of these uses. She added that the applicant had also requested removal of access onto Norwood Lane. She said Rainbows had agreed to provide additional screening between the playground and property owners to the south, which consisted of some solid screening and a mixture of plant materials, berms and/or walls. She said DAB I had voted 6-3 to approve the request.

RUSS EWY, BAUGHMAN COMPANY, commented that he and representatives from Koch Industries and Rainbows United were present to address the case. He gave a brief background stating that he had attended a neighborhood meeting on November 13, 2006, to introduce the initial project to the Lost Acres community. He said at that meeting, several different issues were discussed including buffering on the south side of the property and access onto Norwood Lane. He said those same issues were brought up at the DAB I meeting, however, DAB felt adequate solutions were provided and voted to approve the project. He said during their meeting this morning with planning staff, they agreed to retain a 30-foot screen/buffer area with the provision that they would supply Planning staff with an additional screening plan. He said they added language to the CUP to address the screening issues and prohibit access to Norwood Lane. He said the idea of the CUP was to meet the general needs of the development, but to also be as least intrusive as possible. He said they have also agreed to use limitations such as general office uses, adding buffers, and limiting signage. He concluded by saying that the CUP was a very low-density development.

PATRICK EDWARDS, 4628 E. NORWOOD LANE, said he lived by where the playground was going to be built and was concerned about screening. He explained that this was a quiet, residential neighborhood. He said he had petitions signed by 80% of the people who live along the area requesting that an eight-foot masonry screening wall be constructed to reduce noise and disruption from the playground. He commented that most of the people in the area are older, retired and widows, and that they would like to maintain the nice, quiet neighborhood they have. He also mentioned that he has a dog and that the noise from the playground will cause his dog and other dogs in the neighborhood to bark. He said he would also like to know how far the proposed screening was going to go or cover, and the permanence of the proposed screening. He added that he had questions about future development of the other two parcels. He concluded by stating that a hedgerow consisting of one or two trees was not going to block the noise from the playground. He said that was their main objection, now that the issue of access onto Norwood was off the table. He said they felt the only way they can maintain the enjoyment of their neighborhood was by construction of an eight-foot masonry concrete wall. He said he would submit the petitions with the signatures of 80% of people who were directly affected by this proposal.

Responding to a question from **MITCHELL, PATRICK EDWARDS** said they would like the screening wall so that it completely blocks the view and sound from all of the houses on the south side of the playground.

JOHN ERTEL, 4527 E. NORWOOD COURT, commented that they never heard a thing about the development until they received a letter about this hearing. He asked if the restrictions on Parcel 1 would apply to all three parcels? He said he no longer had an issue with this facility being built since access on Norwood had been addressed; however, he said, because of the noise from the playground and walking their dog, a barrier would please them a great deal. He read a letter from Art and Christina Simler wherein they expressed concern that changing the parcels to commercial zoning will change the whole feel of the neighborhood, causing an increase in traffic and crime, trash, vandalism and numerous other problems. **ERTEL** said he was concerned about Parcels 2 and 3 being changed into commercial properties, and asked if it was possible to force someone else to go through this same zoning process. He concluded by asking how everyone was notified of the first meeting and subsequent meetings.

DOWNING said the agent would probably be able to answer some of Mr. Ertel's questions during rebuttal.

SHIRLEY HANSON, 4511 NORWOOD COURT said she had some concerns with traffic. She said they have a heck of a time getting out of Norwood onto Oliver as it was and that adding additional traffic with parents picking up and dropping off children was going to complicate that situation. She said she also has a problem with the additional traffic that the commercial lots will attract. She said she would like to see some type of traffic control signal at Norwood Lane to get out onto Oliver in either direction.

STACEY ERTEL, 4527 E. NORWOOD COURT, said she is concerned about the wildlife in the area, since Chisholm Creek Park is across the street. She asked if anyone has spoken with staff at the nature reserve concerning how this development will affect the nature park. She concluded by saying that there is development on both sides of the park now.

RUSS EWY said since they did not sponsor the meeting but were invited to the Atwater Community Center on November 13; he did not know how the neighborhood was notified of the meeting. He said concerns were expressed at the meeting about maintaining the deer habitat area along Chisholm Creek. He said they are obligated to provide a 35-foot standard building set back; however, they have agreed to provide a 30-foot buffer plus a 50-foot building setback. He said this was to keep the intensity of usage away from the residents and allow a corridor and access for wildlife. He said the area would not be enclosed or cut off from wildlife.

He commented that the possibility of installing a traffic light was brought up at the meeting, but now that Norwood Lane access was cut off and major traffic across the street was in harmony with the park entrance, that was not an issue. He explained that they do not control signalization, that City Traffic Engineering reviews that and how the CUP would impact the area. He stated that all the "prohibited uses" applied to Parcel 3, which would eliminate heavy traffic generators.

He said in reference to the screening issue, any screening fence would account only for the playground area. He said the screening plan was permanent and that it would be approved at the time of site development. He said they would rebuild fences, replant trees, and that this requirement was permanent. He concluded by saying that the playground would be used by children ages 0-3 years old.

Tape 1, side 2

HILLMAN asked wouldn't a retaining wall be desired to protect children of that age anyway?

EWY said there are some licensing requirements, including that the area be self-contained. He said they have discussed decorative fencing; say wrought iron, with screening and plantings on the south side, for example, berms and evergreens.

BISHOP asked about the possibility of providing pedestrian access through the area for the neighborhood. Or, she said, since the street was closed off, was that even worth asking about.

EWY said sidewalks along Oliver link up the street system and access drive. He said they couldn't speak about the development plan for further west of the area at this time.

MOTION: To approve subject to revised staff recommendations as presented in the handout.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

BISHOP asked about the possibility of installing a traffic signal on Oliver, if there was sufficient space to allow for a stoplight some time in the future.

GOLTRY said she didn't believe Traffic Engineering liked to have lights that close together, that they were usually separated more than 200 feet.

BISHOP suggested a friendly amendment to the motion that installation of a traffic signal be looked at during platting. She said that was to avoid creating a neighborhood with one way in and one way out.

MCKAY clarified that his motion was to approve the zoning and conditional unit plan request. He said platting issues were not part of his motion.

-
5. **Case No.: CUP2006-52** –H & S Home Center LLC (owner); Insight Real Estate Group LLC, Mojo Enterprises LLC, Commerce Construction Inc. (agents) Request DP-237 Ridge Port North CUP Amendment #2 to allow drive-through restaurant and reduce parking on Parcel 6.

Lot 6, Ridge Port North Addition, Wichita, Sedgwick County, Kansas. Generally located Southeast corner of Ridge Road and 34th Street North.

BACKGROUND: The applicant requests Amendment #2 for Parcel 6 of DP-237 Ridge Port North Commercial Community Unit Plan. The requested amendment would eliminate a CUP prohibition of drive-through restaurants in Parcel 6, and reduce the parking requirement by six spaces, from 98 to 92 parking spaces. The proposed drive-through is a coffee shop with no interior retail space; see the attached site plan.

The subject property is located south of 34th Street North and east of Ridge. Parcel 6 is the southernmost parcel of DP-237. North of the site is the remainder of the LC and "GO" General Office zoned Ridge Port North CUP. South of the site is a drainage reserve, "TF-3" Two-family Residential and "SF-5" Single-family Residential housing. East of the site is "MF-29" Multi-family Residential and SF-5 zoned residences. West of the site, across Ridge, is the SF-5 zoned DP-245 and it's associated water feature.

CASE HISTORY: DP-237 and an associated zone change was approved in 1998. The property was platted as the Ridge Port North Addition in 1999.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC", "GO"	Office, retail
SOUTH:	"SF-5", "TF-3"	Low density residential and water features
EAST:	"MF-29", "SF-5"	Single and multi-family residential
WEST:	"SF-5"	Vacant, water feature

PUBLIC SERVICES: Parcel 6 has access to Ridge and 34th Street North. Ridge is a four-lane arterial at this location; the 2030 Transportation Plan indicates that it will remain a four-lane arterial. Current traffic volumes at this location are approximately 12,450 vehicles per day.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" identifies this area as appropriate for "Regional Commercial" development. The Comprehensive Plan *Commercial Objective III.B* encourages commercial areas to "minimize detrimental impacts to other adjacent land uses." The *Commercial Locational Guideline #3* of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The existing C.U.P. is in general conformance with the recommendations of the Comprehensive Plan. The UZC would require 6 queuing spaces for a drive-through; the attached site plan meets this requirement.

RECOMMENDATION: The CUP prohibition of drive-through restaurants on this parcel was intended to protect surrounding neighborhoods from the activity, noise and traffic associated with drive-throughs. The scale of this proposed drive-through would make it a neighborhood business, and not a regional draw. The proposed site plan

demonstrates that the existing strip building will screen the proposed drive-through from residences to the east. Likewise, the proposed drive-through has an order window and no speaker board elements.

The City Traffic Engineer has concerns regarding the proposed site plan, and would require increased drive aisle space on both sides of the drive-through building. The City Traffic Engineer would also require a change to at least one parking space that would impede a drive aisle. These changes could further reduce parking on the site.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request DP-237 Amendment #2 be APPROVED subject to the following conditions:

1. The site shall be developed in conformance with a revised site plan approved by the City Traffic Engineer and Planning Director.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. Parking requirements may be reduced by a maximum of 20 percent of the UZC requirements of Article IV, Section IV-A.
4. DP-237 Parcel 6 item I shall be revised to permit one drive-through only, with no outdoor speaker, subject to the approved site plan for DP-237 Amendment #2.
5. DP-237 Parcel 6 shall add item J, reducing the parking requirement on the site by a maximum of 20%, subject to the approved site plan for DP-237 Amendment #2.
6. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the MAPC or Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-237 is an LC and GO zoned CUP with primarily office uses. The surrounding housing areas are separated from this site by water features. The subject site is screened from housing areas to the east by an existing retail building. The size of the proposed use is small enough to be considered a “neighborhood business.”
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for continued use as approved by DP-237.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Elimination of the drive-through prohibition on this parcel will increase traffic lines within this parcel. Improved queuing space and overall circulation on this site should mitigate potential traffic conflicts. Prohibition of outdoor speakers on the site should reduce negative effects on surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” identifies this area as appropriate for “Regional Commercial” development. The Comprehensive Plan *Commercial Objective III.B* encourages commercial areas to “minimize detrimental impacts to other adjacent land uses”. The *Commercial Locational Guideline #3* of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The existing C.U.P. is in general conformance with the recommendations of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: The requested amendment should have no impact on community facilities.

JESS MCNEELY, Planning Staff presented the staff report.

JOHN LOONEY, SPANGENBERG PHILLIPS ARCHITECTURE said he wanted to add that the proposed building was very small at 300 square feet. He said there was enough room for one or two customers and a restroom. He said they are in agreement with staff comments.

ALDRICH asked about customer parking.

LOONEY said there were two parallel spaces to the north of the facility.

BRYAN FRYE, 3109 Ridgeport, President Ridgeport Homeowners Association, mentioned how this drive through will affect Ridgeport Lake and the homes surrounding the lake just south of the site. He also said he wanted to “go on record” that he has heard from several home owners who are concerned about existing traffic and future traffic growth on Ridge Road. He mentioned the signal light on 29th Street and increased traffic along 34th and Ridge Road where the drive through will be located.

MOTION: To approve subject to staff recommendations.

ANDERSON moved, **JOHNSON** seconded the motion, and it carried (12-0).

There was brief discussion concerning the appropriateness of this area for regional commercial development and the land use designation in the Comprehensive Plan.

MCNEELY explained that the area was designated for regional commercial development essentially from the Ridge/K-96 intersection contiguously one mile south.

-
6. **Case No.: CUP2006-54** – Dillon Real Estate Co., Inc., & Kroger Limited Partnership (owner), Pickering, Inc., c/o Andy Phelan (agent) Request DP-41 Rockwood Center CUP Amendment #3 to DP-41 to relocate garden center location and reduce parking on Parcel A.

Lots 3, 4 and 5, Block 1, Rockwood Center 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located Southwest corner of Rock Road and Central Avenue.

BACKGROUND: The applicant proposes to amend DP-41 Rockwood Center Community Unit Plan located on the southwest corner of Central Avenue and Rock Road. The amendment would relocate the seasonal garden center from the eastern to the western portion of Parcel A and reduce the parking requirement for portion of Parcel A occupied by Dillons SuperStore.

The seasonal garden center would be relocated south of the fuel center and east-west circulation aisle and occupy 0.4± acres on property zoned “LC” Limited Commercial. A 21’X54’ temporary membrane structure would be used for the greenhouse. The conditions of approval for the seasonal garden center (DP-41 Amendment #2) would remain the same except for the relocated area of operation. The garden center would be permitted to operate 120 days per year.

DP-41 Rockwood Center is zoned LC except for a strip along the diagonal west property line zoned “GO” General Office where it abuts the Central Avenue, then “B” Multi-family Residential as a buffer in the 100-foot building setback for approximately 400 feet, then GO for the remainder of the boundary along a creek. The main owner and tenant (12.8 acres, all in Parcel A) is Dillons SuperStore. The Olive Garden also is located on Parcel A, occupying 1.97 acres, with direct frontage on Rock Road. Parcel B (1.02 acre) is developed with a Chili’s restaurant and Parcel C (0.99 acre) is developed with a Krispy Kreme restaurant. Both have direct frontage on Central.

A parking diagram indicates the amount of parking provided during the non-seasonal garden time would be 90 percent of full amount required by the Unified Zoning Code. The reduction would increase to 20 percent when the seasonal garden center was in operation. The impact on parking probably is less than these figures indicate since many of the patrons at the garden center will be relying on multi-stop trips (shopping at both the grocery store and the garden center). The parking reductions are within the 25 percent allowable per the Unified Zoning Code (“UZC”) by administrative approval for expansion/infill projects and could have been requested as a separate administrative adjustment, rather than including it within the CUP amendment request. Typically, the location of several uses within the same overall development allows for some shared parking during peak usage when the peak periods differ between the businesses. In this case, the peak for the grocery falls outside the peak times for restaurants, so both uses can benefit from sharing a parking field. The three restaurants within the CUP have parking fields meeting or exceeding each UZC requirement.

The area to the southwest of DP-41 Rockwood Center CUP is the Rockwood single-family residential neighborhood, zoned “SF-5” Single-family Residential. The Rockwood Swim Club is on the opposite side of the

creek for about a third of the southwest property line. On the north, several “TF-3” Two-family Residential lots are located north of Central Avenue, and the remaining adjacent uses consist of retail, restaurants, a bank and a convenience store in Piccadilly Center (DP-5), zoned LC. The property to the east of Rock Road also is zoned LC except for a small tract with a Westar substation zoned SF-5. The area east of Rock Road consists of restaurants, a bank and retail uses, most of which are within DP-49.

CASE HISTORY: The property is platted as Rockwood Center 2nd Addition, recorded April 30, 1993. Rockwood Center CUP (f/k/a “The Market” CUP) was approved May 5, 1971; Amendment #1 (11/25/86) revised screening requirements and incorporated the previous exception tract at the corner (former gas station). Amendment #2 (12/16/99) allowed the addition of the nursery and garden center. An administrative adjustment (8/30/01) created separate parcels for the two existing restaurants along Central.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3, LC	Duplex, retail, restaurants, convenience store
SOUTH:	LC, SF-5	Restaurant, single-family residential
EAST:	LC, SF-5	Restaurants, retail, substation
WEST:	SF-5, LC	Single-family residential, neighborhood swimming pool

PUBLIC SERVICES: 2006 traffic counts for Central west of Rock were 19,011 vehicles per day and on Rock south of Central were 31,465 vehicles per day. The proposed amendment will not change access from the site onto the arterial streets. Other normal public services will be available for the development.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP generally adheres to these guidelines and garden center will be added as a component to the existing activities on the center. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards of the Access Management Policy.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request DP-41 Amendment #3 be **APPROVED** subject to the following conditions:

1. The location of the seasonal garden center shall be substantially in conformance to the attached site plan and otherwise in conformance with the conditions of approval of DP-41 Amendment #2.
2. Parking requirements may be reduced by a maximum of 25 percent of the UZC requirements of Article IV, Section IV-A.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-41 Rockwood Center is zoned LC except for a strip along the diagonal west property line zoned “GO” General Office where it abuts the Central Avenue, then “B” Multi-family Residential as a buffer in the 100-foot building setback for approximately 400 feet, then GO for the remainder of the boundary along a creek. The main owner and tenant (12.8 acres, all in Parcel A) is Dillons SuperStore. The Olive Garden also is located on Parcel A, occupying 1.97 acres, with direct frontage on Rock Road. Parcel B (1.02 acre) is developed with a Chili’s restaurant and Parcel C (0.99 acre) is developed with a Krispy Kreme restaurant. Both have direct frontage on Central. The area to

the southwest of DP-41 Rockwood Center CUP is the Rockwood single-family residential neighborhood, zoned "SF-5" Single-family Residential. The Rockwood Swim Club is on the opposite side of the creek for about a third of the southwest property line. On the north, several "TF-3" Two-family Residential lots are located north of Central Avenue, and the remaining adjacent uses consist of retail, restaurants, a bank and a convenience store in Piccadilly Center (DP-5), zoned LC. The property to the east of Rock Road also is zoned LC except for a small tract with a Westar substation zoned SF-5. The area east of Rock Road consists of restaurants, a bank and retail uses, most of which are within DP-49.

2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for development as currently zoned and regulated by the CUP.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the parking reduction on surrounding commercial uses should be mitigated by the presence of ample parking on each of the pad sites, the ability to share parking fields during different peak demand times, and the fact that the UZC requirements may overextend parking requirements for a seasonal garden center as an accessory use to a primary use of the grocery store. The site should be adequately buffered by the existing buffering onsite.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP generally adheres to these guidelines and garden center will be added as a component to the existing activities on the center. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards of the Access Management Policy.
5. Impact of the proposed development on community facilities: No significant impact.

DONNA GOLTRY, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **WARNER** seconded the motion, and it carried (12-0).

MCKAY suggested that the minutes recognize the fact that agent was present but chose not to speak.

-
7. **Case No.: CON2006-56** – James Vander Request County Conditional Use for an accessory apartment, in "RR" Rural Residential zoning on property described as;

Beginning at a point 1985.75 feet North of the Southeast Corner of the Southeast Quarter of Section 33, Township 29 South, Range 2 East, of the 6th PM, Sedgwick County, Kansas; thence West 1319.03 feet to a point 1973.34 feet North of the Southwest corner of the East Half of the Southeast Quarter; thence North 328.89 feet; thence East 1317.35 feet to the East line of said Southeast Quarter; thence South 332.1 feet to beginning. Generally located Midway between 111th & 119th Streets South, on the west side of Greenwich Road (11649 S. Greenwich Road).

BACKGROUND: The applicant seeks a Conditional Use to permit an "accessory apartment" at 11649 South Greenwich Road, an unplatted lot containing 10 acres. The site is developed with a residence served by a lagoon. The applicant proposes to use the existing 80' x 26' accessory structure, with an attached garage, as an accessory apartment for his aging mother and other visiting family members. The accessory structure is to be located to the

front of the principal structure, and complies with applicable setbacks. See the attached site plan for more details. All adjoining property is zoned "RR" Rural Residential.

CASE HISTORY: The site's current zoning was probably granted in 1985 with the adoption of countywide zoning.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	Single Family Residence
SOUTH:	"RR" Rural Residential	Single Family Residence
EAST:	"RR" Rural Residential	Single Family Residence
WEST:	"RR" Rural Residential	Single Family Residence and Agriculture

PUBLIC SERVICES: The property is located on South Greenwich Road, a two-lane local road with 35 feet of half-width right of way. South Greenwich Road connects to East 119th Street South, which is a paved county/section line road, to the south and East 111th Street South, which is a gravel section line road, to the north. The property utilizes an existing lagoon for sewage.

CONFORMANCE TO PLANS/POLICIES: The *Wichita-Sedgwick County Unified Zoning Code* Section III-D.6.a states that a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit and may be within the main building, within an accessory building or constructed as an accessory building, the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood, the accessory apartment shall remain accessory to and under the same ownership as the principle single-family dwelling unit, and the ownership shall not be divided or sold as a condominium, and that water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The Comprehensive Plan depicts this site being just to the east of the Mulvane urban growth area, but is located in Mulvane's Zoning Area of Influence.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Development and maintenance of the site shall be in conformance with the approved site plan.
3. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the application area is zoned RR and intended or developed for single-family residential use. The area is rural in character with large-lot residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture and large lot residential uses. The site could continue to be used without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed accessory apartment meets all applicable codes, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested conditional use is in conformance with *Wichita-Sedgwick County Comprehensive Plan* goals of efficiently using land and providing affordable housing options, and the *Wichita-Sedgwick County Unified Zoning Code* Supplementary Use Regulations

5. Impact of the proposed development on community facilities: Approval will not impact community facilities to any significant degree.

DERRICK SLOCUM, Planning Staff presented the staff report.

He reported that the Mulvane Planning Commission voted 9-0 last Thursday to approve the request. He referred the Commission to the handout minutes of the meeting.

It was noted that the applicant was present but declined to speak.

MOTION: To approve subject to staff recommendations.

HILLMAN moved, **ANDERSON** seconded the motion, and it carried (12-0).

8. **Case No.: CON2006-57** – Harvey Siemens / Kansas Gas & Electric Co. Dena Prentiss / KG & E Real Estate Services Request County conditional use permit to remove pre-existing non-conforming use and the addition of a pole storage yard on the site.

The Southwest Quarter of the Northwest Quarter of Section 13, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located South of 61st Street North and east of 143rd Street East.

BACKGROUND: The applicant is requesting to bring a non-conforming use to conformance by applying for a conditional use for a major utility in a “RR” Rural Residential district and propose to add a pole storage yard on the subject site encompassing approximately 40 acres, located south of East 61st Street North and east of North 143rd Street East. The electrical substation provides a voltage regulator for customers of the service. The substation is located, mostly, in the upper half of the property, encompassing approximately 14 acres of the 40-acre subject property. The pole storage yard is proposed to be located in the southern half of the property, 150 feet south of the southern boundary of the existing substation and along the west side of the existing railroad spur. The size of the storage yard is proposed to be approximately 4.5 acres. The pole storage yard will be used to store excess poles and old poles that have been replaced. Currently, poles are scattered throughout the property that surrounds the substation. Part of this application is to create this storage yard so that pole storage can be done in a central location and in a more orderly fashion. The site is to be fenced and gated. County Public Works has reviewed the proposed site plan and approved the access point.

The *Wichita-Sedgwick County Unified Zoning Code* defines a “utility, major” as a service similar to services and facilities of agencies that provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar services that exceed 150 cubic feet in size and six feet in height that might generate discernable noise, odor or vibration in a residential district. The code permits a major utility as a Conditional Use in the RR district.

Surrounding land is zoned RR Rural Residential and there is very little development near the site with an agricultural use across North 143rd Street East and an office/warehouse use at the intersection of East 61st Street North and North 143rd Street East. There is agricultural cropland surrounding all four sides of the subject site.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	RR Rural Residential	Agriculture
SOUTH:	RR Rural Residential	Agriculture
EAST:	RR Rural Residential	Agriculture
WEST:	RR Rural Residential	Agriculture

PUBLIC SERVICES: Public services are not required for this installation

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to development of the site in substantial compliance with the approved site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: RR Rural Residential zoning surrounds the application area. Nearby uses consists of agricultural uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as zoned, and will be brought to conformance with the Unified Zoning Code with the approval of the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This application should not detrimentally impact nearby properties. The use is remaining on the subject site, but will be brought to conformance with a conditional use permit. The storage of poles at the site is currently occurring, but a site will be designated for the storage of poles, unlike now, and the site designated will be maintained to prevent unsightliness.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would force the applicant to remain a non-conforming use, since it is currently an existing use. Everyone uses electricity and this substation helps deliver this product to the people within the county and city. The application is also proposing a more appropriate location for the storage of power poles on site, which are also necessary for the delivery of the product.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. This site is reasonably remote from residences.
6. Impact of the proposed development on community facilities: None identified.

DERRICK SLOCUM, Planning Staff presented the staff report.

STAN LANDWEHR, WILSON-DARNELL-MANN, ARCHITECTS commented on the Background Section of the staff report where it indicates that the site will be fenced and gated. He referenced the zoning requirement to provide screening between residential and non-residential uses. He stated that the closest residence was across 254 and that the area is bermed and has railroad tracks. He mentioned that there was an existing barn directly across the entrance to the sub-station and that there was a tree line on the west edge of the proposed location. He added that the new entry access was designed to minimize loss of trees. He said WestStar was requesting that the fence requirement be waived for this site for two reasons; namely, vehicle access for line crews, and not blocking access to the railroad spur for unloading of poles for delivery transport.

MILLER clarified that if fencing was not on site plan, then it is not required. Responding to a question from **DIRECTOR SCHLEGEL** concerning the fencing code requirement, **MILLER** explained that since the station itself is already fenced, a fence around the rest of the site was not required.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **ANDERSON** seconded the motion, and it carried (12-0).

9. **Case No.: CON2006-58** – Progressive Missionary Baptist Church/Lee Smith Request Conditional use permit for a daycare in “SF-5” Single-family Residential zoning on property described as;

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Block I, Audrey Matlock Heights First Addition, an Addition in Wichita, Sedgwick County, Kansas. Generally located South of 25th Street North and east of Estelle Street.

BACKGROUND: The applicant, Progressive Missionary Baptist Church, is requesting consideration and recommendation for a Conditional Use to allow a Day Care, General, on property zoned “SF-5” Single Family Residential. The property (2.31 acres) is described as Lots 1-13, Block I, Audrey Matlock Heights 1st Addition, located southeast of the E. 25th Street North Street – N. Estelle Avenue intersection. East 25th Street North fronts the north side of the property, N. Estelle Avenue fronts the west side, N. Erie Avenue fronts the east side and E. Ethel Street fronts the south side, separating the property from residential zoning located on all four sides of the property. The Unified Zoning Code requires a Conditional Use when a Day Care, General, is located in SF-5 zoning.

The applicant proposes to provide day care for over 10 children in an, approximately, 4,000 sq. ft. existing building during the week. The applicant currently has an existing fenced area abutting the building of approximately 4,200 sq. ft. This area provides an outside play area for the children. The applicant has provided Staff with a Site Plan that conforms to the development standards of the City. In addition to the building proposed to house the day care, the site also contains another building of approximately 10,000 square feet that houses the church’s sanctuary and other associated church facilities, including parking. Access to the site is provided on E. 25th Street North and off of E. Ethel Street.

CASE HISTORY: The property was platted as part of the Audrey Matlock Heights 1st Addition in 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5” Single Family Residential	Residential Housing
EAST:	“SF-5” Single Family Residential	Residential Housing
SOUTH:	“SF-5” Single Family Residential	Residential Housing
WEST:	“SF-5” Single Family Residential	Residential Housing

PUBLIC SERVICES: East 25th Street North and Estelle Avenue are paved two-lane local roads. There are 2,731 average trips per day recorded near this intersection. Municipal water and sewer services are available at this site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as urban residential. The current zoning of the site is “SF-5” Single Family Residential, a low residential density. Day Care, General is a conditional use for this residential designation, per the regulations detailed in the WSC Unified Zoning Code.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The Day Care Center shall comply with all applicable regulations.
2. Outdoor play shall be limited to the hours of 7:30 AM to 6:30 PM if located within 100 feet of a lot containing a dwelling unit.
3. Shared parking may be provided for a provision for parking spaces as outlined in Section IV-A.4 when the day care is located within an existing church or place of worship, however, the day care shall provide convenient off-street loading facilities as required in Section IV-A.14.
4. All outdoor lighting shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not to exceed ½ the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Planning Director that the light source will be aimed or shielded such that the light source is not visible from the neighboring lot.
5. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The area around the site is zoned residential and developed single family residential. The Day Care, a Conditional Use in this zoning, is connected to an existing church, which is a Permitted Use in "SF-5" Single Family Residential zoning.
2. The suitability of the subject property for the uses to which it has been restricted. The applicant's proposal for a Day Care is appropriate, if the applicant can meet Staff recommendations.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed conditional use is for an existing daycare center. If the applicant can meet Staff recommendations, the affects on nearby property will be minimal.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The plan indicates this site is appropriate for low-density residential uses. Given the land uses, zoning and roadways adjoining this site, the request is in conformance with adopted location guidelines for residential uses.
5. Impact of the proposed development on community facilities: The use currently exists, so the impact will not be beyond the capacity of the existing community facilities.

DERRICK SLOCUM, Planning Staff presented the staff report.

ALDRICH asked if the building was already being utilized as a day care center.

SLOCUM responded yes.

It was noted that the applicant was present and agreed with staff comments but declined to speak.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (12-0).

- 10. Case No.: CON206-59** – Westlink Auto Service Center, Inc., Enterprise Leasing Company, c/o Jay Randolph (agent) Request Conditional use permit for rental and auto leasing (category auto sales), in "LC" Limited Commercial zoning on property described as;

The North 200 feet of the East 217 feet of Lot 48, Block 2, Westlink Village Fourteenth Addition, Wichita, Sedgwick County, Kansas. Generally located Northwest of the 13th Street North-Maize Road intersection.

BACKGROUND: The applicants request a conditional use for outdoor vehicle and equipment sales on a site located west of Maize and north of 13th Street N. The applicants wish to restrict the conditional use to auto rental and leasing, as they have operated a car rental business on the site for several years. Auto leasing falls under the same land use as vehicle sales in the Uniform Zoning Code (UZC), which requires a conditional use permit in the "LC" Limited Commercial zoning district. The site is currently developed with an automobile service business and the Enterprise car rental business.

Property north of the site is zoned "SF-5" Single-family Residential and developed with single-family homes. Property south of the site is zoned LC and developed with a bank. West of the site is vacant LC zoned commercial property; further west is "TF-3" Two-family Residential zoned residences. Screening exists between the business site and residences to the north and west. East of the site, across Maize, is another LC zoned auto service business.

The applicant's site plan reflects the current use of the site. The car rental business includes an office, six parking spaces, and nine display spaces.

CASE HISTORY: The site was platted as Lot 48, Block 2 of the West Link Village 14th Addition, the building on the site was built in 1978.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Mobile Home Park

SOUTH:	LC	Bank
EAST:	LC	Automotive service
WEST:	LC	Vacant

PUBLIC SERVICES: The subject property has access to the bank lot to the south, which has access to Maize. Maize is a four-lane arterial at this location with a south-bound right turn lane. The 2030 Transportation Plan shows this portion of Maize remaining a four-lane arterial. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The conditions attached to a Conditional Use can address site design issues. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

RECOMMENDATION: The Comprehensive Plan would not encourage vehicle sales at this commercial location, abutting single-family residential development. However, the applicant wishes to restrict the use to car rental, and the applicant has operated a car rental business at this site for several years. The car rental business at this site will be limited in size by the nine available display spaces. Staff is not aware of any complaints or land use conflicts with the current car rental business. The UZC supplementary use regulations for vehicle sales in LC requires screening, sound and light mitigation, and prohibits outdoor repair. Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED** subject to the following conditions:

- A. The Conditional Use shall be for automobile rental and leasing only. No vehicle sales shall be permitted on the site.
- B. No outdoor speakers shall be used on the site.
- C. The applicant shall comply with all provisions of Section III-D.6.x. of the Unified Zoning Code regarding supplementary use regulations of outdoor vehicle sales in the LC zoning district.
- D. The site shall be developed in conformance with the approved site plan. Rental vehicles shall be located in the nine spaces designated on the site plan for display.
- E. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

- 1. **The zoning, uses and character of the neighborhood:** The character of this business location is that of a neighborhood commercial area. The limited scope of this car rental business should not be out of character with the zoning and land uses in the immediate area.
- 2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC Limited Commercial and could be developed with a wide range of uses permitted by right. The property is suitable for the commercial uses to which it has been restricted.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Auto rental at this site, given the limited size and proposed conditions, should have minimal negative impacts on nearby property.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. However, this conditional use requests only vehicle rental at a limited scale. There is no adopted neighborhood plan that would specifically discourage car rental at this site. The conditional use conditions should mitigate any potential negative effects on surrounding properties.
5. Impact on Community Facilities: All public facilities are available and existing road facilities are adequate.

JESS MCNEELY, Planning Staff presented the staff report.

He reported that on January 8, DAB VI voted unanimously to approve the request. He said there have been no complaints about this Enterprise Rental Agency, which is located at the Westlink Auto Service Center. He reiterated that the permit is for vehicle rentals only, no vehicle sales.

ADRICH asked several questions concerning the wording of the staff report.

MCNEELY explained that the supplementary use regulations in the Uniformed Zoning Code make no distinction between vehicle rentals and vehicle sales. He said that was why Item C made reference to Section III-D.6.x.

It was noted for the record that the agent agreed with staff comments, but chose not to speak.

MOTION: To approve subject to staff recommendations.

GISICK moved, **BISHOP** seconded the motion, and it carried (12-0).

The Metropolitan Area Planning Department informally adjourned at 3:30 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)